

FROM THE DESK OF
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TUESDAY, APRIL 10, 2012

Federal Communications Commission
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Reference: DA 12-555 Released: April 6, 2012

**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON TRANSITION
PROCESS FOR 700 MHZ PUBLIC SAFETY BROADBAND WAIVER RECIPIENTS**

PS Docket No. 12-94

Comment Due Date: April 20, 2012

Transition Issues We seek comment on the most expedient and cost-effective way to transition the Waiver Recipients' authorizations.

Q: What actions should the Commission take to effectuate the transition?

A: Establish FirstNet Board of approval and make the board responsible for the commencement of the approval notifications for existing waivers and/or use of spectrum.

Q: Should the Commission issue a stay to halt deployment by the Waiver Recipients in order to avoid additional costs being incurred by the Waiver Recipients. What impact would such action have on Waiver Recipients' funding, including obligations such as those under the Broadband Technology Opportunities Program (BTOP)?

A: Process for procurement controls should be put in place initially by the FirstNet Board to standardize and correct any procurement deviations. Existing waivers granted can commence once approval from the FirstNet Board has had a chance to review the procurement procedures to insure no anti-competitive practices have taken place.

Q: It appears that jurisdictions such as Charlotte and Texas that plan to go into service in the coming months may be differently situated than other Waiver Recipients because their deployments will bring public safety benefits in the very near term. Should these parties be treated differently because they plan to enter into service shortly, or because they have already expended substantial funds?

A: No, these are declared Pilot Testing scenarios and thus should fall under the guidelines that changes or modifications would be made based on the results of the Pilot testing. If, in the end of that Pilot Testing, require changes (such as interoperability issues) then it falls in the hand of those doing the Pilot Test. That is the accepted risk of doing Pilot Testing.

Q: Alternatively, should the Commission decline to act on the interoperability showings for Charlotte, Texas or Adams County, because of the impending transition?

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A: Waivers should be put on hold status, not denied, until the FirstNet Board can setup its procedures for tracking and approving procurement procedures to insure no anti-competitive practices have taken place. Waivers can commence upon approval. There is nothing new in the design, deployment and operations of an LTE network solution. These solutions have been, and are being, deployed for the last 3 years and thus should be considered as non-trial based technologies.

Q: What would be the impact to FirstNet if the Commission did authorize these waiver recipients to enter into service?

A: Procurement procedures could have been compromised threatening the validity and value of the waivers to follow. If legal mitigation is required because of a contested award it may delay and impact all future waiver recipients.

Q: Are there network architectures that the Waiver Recipients who wish to initiate service could utilize that would impact the costs of the transition to FirstNet?

A: Depending on the shape of the Public Private Partnership, and in pursuing a “Private”, not “commercial” solution, then there may exist entities within that P3 that have existing fiber, microwave and tower infrastructures that can be utilized. As for the broadband LTE there exist only 4 viable alternatives that are predominately deployed for commercial service; NSN, ALU, Ericsson and Huawei. Huawei has been disallowed to compete due to national security reasons. These LTE vendors have been commercially deploying LTE for the last 3 years. It should not be necessary to deploy any alternative technologies to bridge the gap.

A: If a State wishes to engage a “Commercial” play then it should be noted that the commercial carriers do have LTE being deployed today, but are designed to meet a commercial subscriber services business model and are not aligned for the business model of Public Safety. This mis-alignment will have detrimental impacts for the long-term. Although such technology they deploy (LTE) do meet the technology standard (being that it is the same) they have not been, and will not be deployed, based on the hardening requirements necessary for the Public Safety. Such design characteristics are not financially viable in the commercial sense. To add to the cost justifications the design elements for billing and operational support will be different and more complex than traditional cellular roaming type features, e.g. the inclusion of LMR/RF radio based handsets, emergency response communication, etc..

Q: What are the costs or other impacts, including lost near term public safety benefits, if the Commission fails to authorize these waiver recipients to enter into service?

A: Although there is always an impact on not having the technology available sooner you should expect that even if the technology is deployed in 2012 there wouldn't be a significant impact due to construction, site acquisition, training, testing and fleet installment procedures to which has to rely upon the development of handset technology that will interface to the network. Alternatively as part of the Public Private Partnerships could reside the financial impact of buying the handset technology to a scale that will allow the OEMs to create the technology required.

Q: Commenters should address how their proposals are consistent with the Spectrum Act. Would one possible approach would be to rescind all the waiver authorizations. What would the impact -including cost - be to the Waiver Recipients of such an approach?

A: Outside of capital that has already been utilized for consulting, design and construction during a trial period the cost implications would be negligible due to the framework of constructing the network will be the same this

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year and for the seeable future. Any money utilized during the initial phase of trials, or during the waiver time-frame, would eventually be capitalized on anyway being that the network will be built eventually. It should be noted that designing the control centers, backhaul and fiber routes may be a good thing; or at least start investigating Public Private Partnership arrangements to help fund State initiatives. These aspects take longer than selecting the LTE vendor, plus there won't be much of a change in the LTE technologies for the next 4 years except for the Rev 9 introduction which will really be a software upgrade. In the meantime there is a lot of work that can start that doesn't pertain to the actual LTE portions. I would not see the necessity to select an LTE vendor in any build situation until about the 40% complete milestone, then there will be lots of tower remediation/builds, site acquisitions, testing and design aspects that have to be worked well before a solution is installed, so in short it would be a good 6-12 months in any build situation (following Notice To Proceed) before LTE can be locked down -- that would be plenty of time for the NTIA, FirstNet and the spectrum to be setup. The possible roadblock would be those States that can't commit to a build without Federal tax dollars. You may want to further note that in comparison to a common capital build program to build an LTE network the size of a State usually has about 70% construction related work compared to 30% equipment. Of that 30% in equipment less than 15% will actually have anything to do with LTE.

Q: Could the cost impact be minimized in any way? For instance, could we rescind the waiver authorizations of only those jurisdictions who have not yet expended significant funds?

A: As it stands we are probably looking at less than a 1% expenditure on activities to date. Any future money impacts will eventually be utilized anyway.

Q: Is there another method to achieve the same objectives, while minimizing any adverse impacts?

A: Allow the waivers to stay in place and move forward on the scheduling and project management timeframes at the State level but administer a fixed procurement process that has to scrutinize market competitive practices. We should anticipate that a standard design provided by the OEMs is sufficient to move forward on, especially being that the same technical solutions are already being deployed for the commercial market place. The only outstanding issue would be the funding issues, but if a State moves forward on a Public Private Partnership then they should not be derailed in their pursuit being that the PPP may itself be able to fund the States initiative.

Q: Is this approach consistent with the Spectrum Act?

A: Defer

Q: We also recognize that the initial term of the May 2010 Waiver Recipients' leases will end in September 2012, shortly after the August 20, 2012 deadline for establishing the FirstNet board. Is there an appropriate way to transition their authorizations coincident with the end of the lease term, or coincident with the issuance of a license to FirstNet? Is such an approach consistent with the Spectrum Act?

A: I would suggest just extended the timelines. You should note that the design/build model allows for the detailed selection of the technology to follow the program rollout and construction, i.e. backhaul and fiber optic solutions can be designed and built as well as any datacenter or control center environments. I defer on the second question.

Q: Should the Commission simply allow these leases to expire or decline to renew them?

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A: Extend the timeframes of the leases to accommodate for the changes made at the Federal Level. The recipients really have no control over Federal timelines and approvals and thus should not be held responsible.

Q: Should the Commission allow renewal at the option of FirstNet?

A: Yes

Q: Should the Commission allow all or some of the leases to be renewed with the PSST, and then transferred to FirstNet at an appropriate time?

A: The PSST should provide oversight and administration during the Waiver time period and until the FirstNet Board can be up and running.

Q: Should such lease renewal terms be for a more limited duration than the initial two-year lease? What term?

A: A 12 month window would be sufficient depending on the timeline of the FirstNet Board coming on line.

Q: What would be the cost impact of each of these approaches?

A: Negligible compared to the entire build requirements. Any changes at the Federal level should not impact the State level of deployments.

Q: Could these approaches be structured in a manner that would be consistent with the Spectrum Act?

A: Defer

Q: Should the Commission authorize operations on a special temporary authority (STA) basis during an interim period following the expiration of these leases, until such time as FirstNet can determine whether to enter into a new lease, or until such time as the relevant state determines whether or not it will opt out of the nationwide license? A: It is recommended that the PSST should suffice as the STA.

Q: How long could such an arrangement persist?

A: Until the FirstNet Board states differently.

Q: Is this type of arrangement viable for all the Waiver Recipients, or should it be limited to those with imminent deployment plans, or another extenuating circumstance?

A: The basis for the extensions to the waivers is based on the FirstNet Board being established. Beyond that requirement it will be up to the State anyway to administer the actual build based on their unique timelines.

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Given the timeframes to when the FirstNet Board is established and compared to the actual build timeline requirements the arrangement would suffice across all waiver recipients.

Q: What factors would the Commission use to make such a determination?

A: Utilizing a common project management and construction management timeline associated with such large complex wireless builds the Commission should consider that most of the issues being raised have sufficient time to be clarified and resolved before ultimately going into final design and deployment for any given State. For those States that have commissioned Pilots and are deploying and utilizing existing LTE technology; then they will have to follow the guidelines of their Pilot Testing to make accommodations and changes as required once the FirstNet Board makes its final recommendations. This is the nature of "Pilot Testing". Sometimes those "tests" don't come out the way we anticipated, that is an acceptable risk associated with Pilot Testing.

Sincerely yours,

Dr. Michael Myers